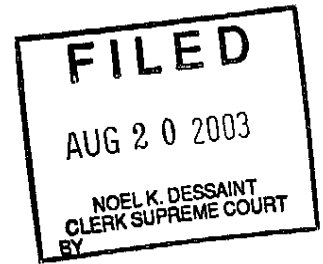


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R-03-0012

**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

In the Matter of:	)	
Rule 123, Arizona Rules of the Supreme Court	)	
Rules of Civil Procedure and Rules of	)	
Criminal Procedure	)	Supreme Court
	)	R. No. 2003- 0012

**Comment**

For the reasons expressed herein, the Administrative Office of the Courts (AOC) requests that the Court consider an additional amendment to Rule 123 as part of its consideration of the petition in this matter.

Pursuant to Administrative Order No. 2003-1, the Supreme Court temporarily afforded confidentiality to assessment materials and scores used as part of the 2003 New Judge Orientation program. The administrative order specified that these records were to be released only for internal processing purposes or with the approval of the Chief Justice. The Court wrote:

. . . It is unclear whether training records maintained by the courts concerning judges and clerks of court would be entitled to the same confidentiality as other court staff records [under Rule 123].

The confidentiality of the education process and education records of private citizens is uniformly protected under state and federal law and policy. This confidentiality extends to work completed by students and the grades they receive. Only the degree received is a matter of public record. . . . The best education programs challenge their participants to learn skills and explore ideas that are new to them. This education process works most effectively in an atmosphere of trust that promotes candor. Participants who are concerned about public scrutiny of their statements and performance are not likely to fully engage in this process. This is likely to diminish the

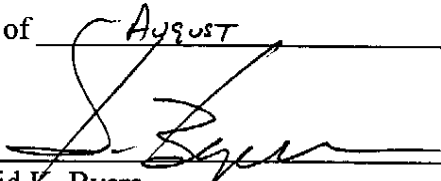
effectiveness of the training provided contrary to the best interest of the state.

The training assessment component piloted in 2003 has proven to be a valuable feature of New Judge Orientation and has been made a permanent part of the training offered by the AOC Educational Services Division. The sound policy reasons articulated in Administrative Order No. 2003-1 support the continuing confidentiality of the assessment records generated in this program. On that basis, and because the current rule does not clearly protect these records, the AOC requests that the Court amend Rule 123 to clarify that protections afforded by the rule to employee records also protect training assessment records generated in training judges, clerks of court and other court staff.

Suggested language could be inserted as a new subsection (12) appearing under Rule 123(e):

(12) *Judicial branch training materials and records.* Evaluation materials and records generated by participants in judicial education programs such as test scores, educational assessments, practical exercise worksheets, and similar materials are closed.

Respectfully submitted, this 20th day of August, 2003.

  
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